

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

DARRYL JAYVONN LEE,

Petitioner,

VS.

NATHANIEL QUARTERMAN,

Respondent.

§
§
§
§
§
§
§
§

CIVIL ACTION NO. C-07-476

**ORDER ADOPTING MEMORANDUM AND
RECOMMENDATION TO DENY RESPONDENT'S
MOTION TO DISMISS FOR FAILURE TO EXHAUST**

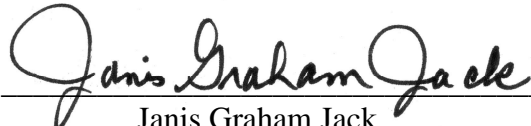
On March 4, 2008, United States Magistrate Judge Brian L. Owsley signed a Memorandum and Recommendation recommending that respondent's motion to dismiss for failure to exhaust (D.E. 13) be denied. On March 12, 2008, respondent filed Objections to the Magistrate's Recommendations.

Having reviewed the findings of fact and conclusions of law therein, as well as the pleadings on file and respondent's objections, and having made a *de novo* disposition of those portions of the Magistrate Judge's recommended disposition to which objections were raised, *see Koetting v. Thompson*, 995 F.2d 37 (5th Cir. 1993), 28 U.S.C. § 636(b)(1)(C); Fed.R.Civ.P.72(b), the Court hereby adopts as its own the findings and conclusions of the Magistrate Judge.

Accordingly, it is ORDERED that respondent's motion to dismiss for failure to exhaust is denied. The Magistrate Judge is instructed to order further briefing by way of a summary judgment motion on the issue of exhaustion and the merits of the case.

The clerk shall enter this order and provide a copy to all parties.

SIGNED and ORDERED this 9th day of April, 2008.



Janis Graham Jack
United States District Judge